Office Supreme Court, U.S.
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No.

In the

Supreme Court of the United States

No. 18557 (In U. S. Court of Appeals, Fifth Circuit)
HARDWARE MUTUAL CASUALTY COMPANY,
Petitioner,

v.

ADAM McINTYRE,
(hereinafter called McIntyre)
Respondent.

No. 317

No. 19184 (In U. S. Court of Appeals, Fifth Circuit)
UNITED STATES FIDELITY & GUARANTY COMPANY,
Petitioner,

v.

HORACE HART,
(hereinafter called Hart)
Respondent.

No. 318

No. 19427 (In U. S. Court of Appeals, Fifth Circuit)
STANDARD ACCIDENT INSURANCE COMPANY,
Petitioner,

v.

MARCOS V. AGUIRRE, JR.,
(hereinafter called Aguirre)
Respondent.

No. 319

Petition for Writs of Certiorari to the United States Court of Appeals for the Fifth Circuit

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The three above mentioned cases involve identical or closely related questions of jurisdiction of the Federal Courts in Workmen's Compensation cases. All three were decided June 20, 1962 by the U. S. Court of Appeals for the Fifth Circuit. Hence, this joint petition for writs of certiorari in

each case as authorized by sec. 5 of Rule 23 of the Supreme Court. The Appeals Court sitting in panels of three judges in each case, with one judge dissenting in each case, has denied jurisdiction under 28 U.S.C.A. § 1332(a) and has entered final judgments in each of the three cases.

OPINIONS BELOW

The opinions and dissents and judgments in the Fifth Circuit in each of the cases are not yet in the reports. For convenience, they are attached hereto as Appendices A, B and C, *infra*. The judgments in the trial courts are not in the reports, as far as is known (R. McIntyre, p. 25, Memorandum Decision, p. 33, and amended order, p. 35, Appendix D, *infra*; R. Hart, p. 22, Appendix E, *infra*; R. Aguirre, p. 17, and opinion, p. 20, Appendix F, *infra*).

JURISDICTION

The judgments of the Appeals Court in each of the three cases were entered June 20, 1962 (Appendices A, B and C). No motions for rehearing were filed. This Court has jurisdiction under 28 U.S.C.A. § 1254(1).

QUESTIONS PRESENTED

1. Are the decisions of the majority in each of these three cases in conflict with the rule for determining jurisdiction as to amount in controversy laid down in *Horton v. Liberty Mutual Insurance Company, 6 L. Ed. 2d 890, 367 U. S. 348*, by this Court as claimed by the dissenters, Judge Rives and Judge Hutcheson?

2. In diversity actions, is the amount in controversy in a Federal District Court determined by the good faith allegations of the complaint, or by the amount of the claimant's counterclaim?

STATUTES INVOLVED

28 U.S.C.A. § 1332 in part:

> "§ 1332. Diversity of Citizenship; amount in controversy; costs.
>
> "(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum of $10,000, exclusive of interest and costs, and is between—
>
> "(1) Citizens of different states;"

Texas Civil Statutes, Vernon's Arts. 8307, sec. 5 (part relevant), Appendix G, *infra*; Art. 8306, sec. 10 (part relevant), Appendix H, *infra*.

STATEMENT

(McIntyre)

The Respondent, McIntyre, in his claim before the Texas Industrial Accident Board, alleged that he sustained general injuries on or about January 15, 1960 while working for Nome Supply Company at Nome, Texas [McIntyre R. 3, 12-Sec. II(2)]. His claim would have supported a recovery of $14,035.00 before said Board (See Art. 8306, Sec. 10, Vernon's Tex. Civ. Statutes, attached hereto as Appendix H);

The Texas Industrial Accident Board made an award of $330.15 [McIntyre R. 12-Sec. II(3)]. Petitioner, after giv-